



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Mark Thomas & Company, of Sacramento, for Preparation of the Harney Lane/Union Pacific Railroad Grade Separation Feasibility Study Report (\$49,184) and Appropriating Funds (\$58,000)

MEETING DATE: March 17, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute a professional services agreement with Mark Thomas & Company, of Sacramento, for preparation of the Harney Lane/Union Pacific Railroad Grade Separation Feasibility Study Report in the amount of \$49,184 and appropriating \$58,000.

BACKGROUND INFORMATION: At the June 17, 2009 City Council meeting a resolution was adopted authorizing the Harney Lane Grade Separation to be the City's preferred project for the Measure K Railroad Grade Separation Program. A feasibility study report is the first step in the process that will lead to design and ultimately construction.

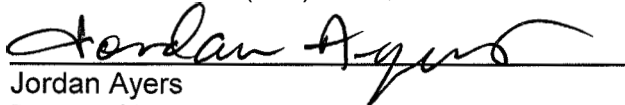
Mark Thomas & Company is uniquely qualified for this type of grade separation project as it recently completed the design of three similar grade separation projects for the City of Stockton. In addition, Mark Thomas & Company is working for the City on the Harney Lane Specific Plan project. Information obtained from this feasibility study will also be used to establish the future right-of-way line along this segment of Harney Lane for the Harney Lane Specific Plan project.

The consultant for this project, Mark Thomas & Company, will gather information on the stakeholders, utilities, existing traffic data, and record drawings from the City, County and UPRR involved in the grade separation. The consultant will develop four alternatives, evaluate each alternative, prepare preliminary cost estimates for each alternative and develop a feasibility study based on their findings.

Funding for the grade separation feasibility study work is coming from the Measure K funds allocated to the Harney Lane Specific Plan project. The requested appropriation contains funds to cover contingencies.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Appropriation of the following funds is required.
Measure K Grant (325): \$58,000


Jordan Ayers
Deputy City Manager/Internal Services Director


F. Wallv Sandelin
Public Works Director

Prepared by Chris Boyer, Junior Engineer
FWS/CB/pmf

APPROVED: 
Blair King, City Manager

AGREEMENT FOR CONSULTING SERVICES

ARTICLE 1 PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and Mark Thomas & Company (hereinafter "CONSULTANT").

Section 1.2 Purpose

CITY selected the CONSULTANT to provide a feasibility study report required in accordance with attached scope of services, Exhibit A.

CITY wishes to enter into an agreement with CONSULTANT for Harney Lane/UPRR Grade Separation Project (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 Scope of Services

CONSULTANT, for the benefit and at the direction of CITY, shall perform the scope of services as set forth in Exhibit A, attached and incorporated by this reference.

Section 2.2 Time For Commencement and Completion of Work

CONSULTANT shall commence work within ten (10) days of executing this Agreement, and complete work under this Agreement based on a mutually agreed upon timeline.

CONSULTANT shall submit to CITY one final feasibility study and other project deliverables for the Project, as indicated in the attached project scope of services.

CONSULTANT shall not be responsible for delays caused by the failure of CITY staff or agents to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONSULTANT's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONSULTANT shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONSULTANT shall attend meetings as indicated in the Scope of Services, Exhibit A.

Section 2.4 Staffing

CONSULTANT acknowledges that CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The scope of services shall be performed by CONSULTANT, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONSULTANT of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel in CITY's sole discretion and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT represents that it is prepared to and can perform all services within the scope of services specified in Exhibit A. CONSULTANT represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONSULTANT to practice its profession, and that CONSULTANT shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals.

Section 2.5 Subcontracts

CITY acknowledges that CONSULTANT may subcontract certain portions of the scope of services to subconsultants as specified and identified in Exhibit A. Should any subconsultants be replaced or added after CITY's approval, CITY shall be notified within ten (10) days and said subconsultants shall be subject to CITY's approval prior to initiating any work on the Project. CONSULTANT shall remain fully responsible for the complete and full performance of said services and shall pay all such subconsultants.

ARTICLE 3 COMPENSATION

Section 3.1 Compensation

CONSULTANT's compensation for all work under this Agreement shall not exceed the amount of Fee Proposal, attached as a portion of Exhibit A.

CONSULTANT shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONSULTANT shall submit invoices for completed work on a monthly basis, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the scope of services said work is attributable.

Section 3.3 Costs

The fees shown on Exhibit A include all reimbursable costs required for the performance of the individual work tasks by CONSULTANT and/or subconsultant and references to reimbursable costs located on any fee schedules shall not apply. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved by CITY.

CONSULTANT charge rates are attached and incorporated with Exhibit A. The charge rates for CONSULTANT shall remain in effect and unchanged for the duration of the Project unless approved by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4 MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees or in the engagement of any

subconsultants on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

ti 4.2 _____ i for Damage

CONSULTANT shall indemnify and save harmless the City of Lodi, the City Council, elected and appointed Boards, Commissions, all officers and employees or agent from any suits, claims or actions brought by any person or persons for or on account of any injuries or damages sustained or arising from the services performed in this Agreement but only to the extent caused by the negligent acts, errors or omissions of the consultant and except those injuries or damages arising out of the active negligence of the City of Lodi or its agents, officers or agents.

Section 4.3 No Personal Liability

Neither the City Council, the City Engineer, nor any other officer or authorized assistant or agent or employee shall be personally responsible for any liability arising under this Agreement.

Section 4.4 Responsibilitv of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance, except as expressly provided herein.

Section 4.5 Insurance Requirements for CONSULTANT

CONSULTANT shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect CONSULTANT and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from CONSULTANT'S operations under this Agreement, whether such operations be by CONSULTANT or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMPREHENSIVE GENERAL LIABILITY

\$1,000,000 Bodily Injury -

Ea. Occurrence/Aggregate

\$1,000,000 Property Damage -

Ea. Occurrence/Aggregate

or

\$1,000,000 Combined Single Limits

2. COMPREHENSIVE AUTOMOBILE LIABILITY

\$1,000,000 Bodily Injury - Ea. Person

\$1,000,000 Bodily Injury - Ea. Occurrence

\$1,000,000 Property Damage - Ea. Occurrence

or

\$1,000,000 Combined Single Limits

NOTE: CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage.

A copy of the certificate of insurance with the following endorsements shall be furnished to CITY:

(a) Additional Named Insured Endorsement

Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees and Volunteers as additional named insureds insofar as work performed by the insured under written Agreement with CITY. (This endorsement shall be on a form furnished to CITY and shall be included with CONSULTANT'S policies.)

(b) Primary Insurance Endorsement

Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

(c) Severability of Interest Clause

The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(d) Notice of Cancellation or Change in Coverage Endorsement

This policy may not be canceled by the company without 30 days' prior written notice of such cancellation to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241.

(e) CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the

California Tort Claims Act (California Government Code Section 810 et seq.). "Claims made" coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

Section 4.6 Worker's Compensation Insurance

CONSULTANT shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of CONSULTANT'S employees employed at the site of the project and, if any work is sublet, CONSULTANT shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, CONSULTANT shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241.

Section 4.7 Attorney's Fees

In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the court.

Section 4.8 Successors and Assigns

CITY and CONSULTANT each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONSULTANT shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.9 Notices

Any notice required to be given by the terms of this Agreement shall be deemed to have been given when the same is personally served or sent by certified mail or express or overnight delivery, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
F. Wally Sandelin, Public Works Director
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

To CONSULTANT: _____

Section 4.10 Cooperation of CITY

CITY shall cooperate fully in a timely manner in providing relevant information that it has at its disposal.

Section 4.11 CONSULTANT is Not an Employee of CITY

It is understood that CONSULTANT is not acting hereunder in any manner as an employee of CITY, but solely under this Agreement as an independent contractor.

Section 4.12 Termination

CITY may terminate this Agreement by giving CONSULTANT at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONSULTANT shall be entitled to payment as set forth in the attached Exhibit A to the extent that the work has been performed. Upon termination, CONSULTANT shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONSULTANT with third parties in reliance upon this Agreement.

Section 4.13 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.14 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent.

Section 4.15 Integration and Modification

This Agreement represents the entire integrated Agreement between CONSULTANT and CITY; supersedes all prior negotiations, representations, or Agreements, whether written or oral, between the parties; and may be amended only be written instrument signed by CONSULTANT and CITY.

Section 4.16 Applicable Law and Venue

This Agreement shall be governed by the laws of the State of California. Venue for any court proceeding brought under this Agreement will be with the San Joaquin County Superior Court.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer tapes or cards, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared for this project, shall be deemed the property of CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all such documents during regular business hours. Upon termination or completion, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) days.

CITY agrees to indemnify, defend and hold CONSULTANT harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were prepared.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

By _____
RANDI JOHL
CITY CLERK

By _____
BLAIR KING
CITY MANAGER

APPROVED AS TO FORM:

Dated: _____

By _____
D. STEPHEN SCHWABAUER
CITY ATTORNEY



By: _____

Its: _____

SCOPE OF WORK**TASK 1.0 - Project Management****1.1 Kick-Off Meeting & PDT Coordination Meeting**

MTCO will coordinate a kick-off meeting with the proposed PDT members. At the kick-off meeting, the scope of work and schedule will be reviewed. It is anticipated that the PDT will consist of MTCO, the City of Lodi, and other agencies/organizations deemed appropriate by the City Project Manager. The purpose of the kick-off meeting is to brainstorm ideas, develop project goals, and get all PDT members on the same page before the project work begins. This forum will allow the PDT members to identify and exchange relevant existing information and data.

PDT meetings will be held with representatives from the City and other outside parties as necessary (assume 1 meeting after submittal of Draft Feasibility Study), with more frequent communication via e-mail or telephone as required keeping the City's Project Manager up-to-date on the status of the project issues and action items.

This task includes preparation of meeting agenda in consultation with the City's Project Manager, distribution of approved meeting agenda, arrangement of attendance of meeting participants, and preparation and distribution of meeting minutes, including recap of actions to be taken prior to the next meeting.

Progress Reports will be provided with the submittal of the monthly invoice packages showing the status of the project budget vs. the amount of work completed.

1.2 Coordination with UPRR and Utility Companies

MTCO will prepare and mail (on City letterhead) Utility "A" Plans per the City of Lodi Standards. MTCO will map the existing utilities on an aerial photo based on as-built plans, utility maps, and field observation of above-ground utilities. The utilities will be mapped within the project limits only.

This task will include ongoing agency coordination, including coordination with the City of Lodi, UPRR, and other project stakeholders. This task will include preparing memos, letters, e-mail, and phone calls necessary to manage the project.

TASK 1.0 - Deliverables:

- An agenda and one set of meeting notes with action items for each team member/meeting attendee. (Up to 2 Meetings)
- Monthly progress report with action items, schedule updates, and invoice. (Up to 6 reports)

TASK 2.0 - Data Collection**2.1 Data Gathering**

Following the kick-off meeting, the MTCO team will compile existing background data that City Staff and other stakeholders have provided for the project area. MTCO will collect available record mapping (records of survey, subdivision maps, parcel maps, etc.) and as-builts from a number of sources, including the City, County and UPRR. Data and documents we anticipate receiving include, but are not limited to, existing plans, documents, studies and statistical data (e.g. ADT volumes, etc.) that will provide information relating to: existing traffic data, existing permits and easements, and existing trails, facilities and activity areas within the

project corridor.

TASK 3.0 - Alternative Development & Evaluation / Feasibility Study

3.1 Preliminary Alternatives

MTCO will develop up to four alternatives for a railroad grade separation alteration at the Harney Lane/UPRR crossing (Two overhead alternatives and two underpass alternatives). The alternatives will be shown on a plan/profile exhibit. The plan view will show a construction control line, and a roadway width based on recommendations from the City's General Plan. These alternatives will be based on existing land uses, prominent physical features, restricted land uses, environmental and right of way impacts. The conceptual alternatives developed are intended to generate discussion and input from project stakeholders.

3.2 Preliminary Project Cost Estimates

MTCO will prepare preliminary project cost estimates for each alternative using most current bid results and the Caltrans website to determine the latest price indices. This cost estimate will include construction costs, Right of Way costs, utility relocation costs, and environmental mitigation costs.

3.3 Draft Feasibility Study

MTCO will prepare a preliminary feasibility study that will evaluate each alternative with the various project elements studied above. This report will consist of findings resulting from the Data Gathering task, right-of-way impacts, traffic impacts, project cost and their respective impacts associated with each alternative developed. The report will summarize and tabulate findings into an easy-to-read comparison of alternatives. MTCO will also provide internal quality control on products submitted to the City. The submittal package will be reviewed for accuracy, clarity, consistency, adherence to design and drafting standards, and cost effectiveness.

3.4 Final Feasibility Study

Based on comments received from the Draft Feasibility Study, MTCO will combine the information developed and prepare a Final Feasibility Study Report.

TASK 3.0 – Deliverables:

- Draft Feasibility Study (6 copies)
- Final Feasibility Study (6 copies)

PROJECT TASK	P-i-C							SUBTOTAL	P-i-C							SUBTOTAL	TOTAL FEE
	Sr. Project Manager	Sr. Project Engineer	Sr. Design Engineer	CADD Technician	Land Surveyor	Project Surveyor	2-Person Crew		Sr. Project Manager	Sr. Project Engineer	Sr. Design Engineer	CADD Technician	Land Surveyor	Project Surveyor	2-Person Crew		
Task 1 - Project Management																	
1.1 Kick Off Meeting & (P/D) Meeting / Progress Reports	2	12	8					\$ 280.00	\$ 192.00	\$ 160.00	\$ 130.00	\$ 100.00	\$ 160.00	\$ 130.00	\$ 270.00		
1.2 Coordination with UPRR and Utility Companies	2	4	8	24				\$560	\$2,304	\$1,280					\$4,164		
Task 1 Subtotal	4	16	16	24			60	\$1,160	\$3,072	\$2,560	\$3,120				\$9,912		
Task 2 - Data Collection																	
2.1 Data Gathering			8	16			24		\$1,280	\$2,080					\$3,360		
Task 2 Subtotal				16			24		\$1,280	\$2,080					\$3,360		
Task 3 - Alternative Development & Evaluation / Feasibility Study																	
3.1 Preliminary Alternatives	2	8	24	40		48	122	\$560	\$1,536	\$3,840	\$5,200	\$4,800			\$15,956		
3.2 Preliminary Project Cost Estimates	2	8	8	24			36	\$560	\$384	\$1,280	\$3,120				\$5,364		
3.3 Draft Feasibility Study	4	8	16	32			60	\$1,160	\$1,536	\$2,560	\$4,160				\$9,416		
3.4 Final Feasibility Study	2	8	16				26	\$560	\$1,536	\$2,560					\$4,676		
Task 4 Subtotal	10	26	64	96		48	244	\$2,900	\$4,992	\$10,240	\$12,480	\$4,800			\$35,412		
Reimbursables															\$500		
Grand Total	14	42	88	136	48		328	\$4,060	\$8,064	\$14,080	\$17,680	\$4,800			\$49,184		

RESOLUTION NO. 2010-26

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE PROFESSIONAL
SERVICES AGREEMENT WITH MARK THOMAS & COMPANY
FOR PREPARATION OF HARNEY LANE/UNION PACIFIC
RAILROAD GRADE SEPARATION FEASIBILITY STUDY
REPORT AND FURTHER APPROPRIATING FUNDS

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WHEREAS, recent project approvals by the City Council of the Reynolds Ranch, Southwest Gateway, and Westside Annexations require that reconstruction and widening of Harney Lane from two lanes to four lanes be completed to serve the demands resulting from development of these projects, and Harney Lane will need a grade separation at the Union Pacific Railroad crossing in order to accommodate the four-lane configuration; and

WHEREAS, Mark Thomas & Company will gather information on the stake holders, utilities, existing traffic data, and as-builts from the City, County, and Union Pacific Railroad involved in the grade separation and will then develop four alternatives, evaluate each alternative, prepare preliminary cost estimates for each alternative, and develop a feasibility study based on its findings; and

WHEREAS, the grade separation feasibility study report will be funded by Measure K funds.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a professional services agreement with Mark Thomas & Company, of Sacramento, California, in the amount of \$49,184 for the preparation of the Harney Lane/Union Pacific Railroad Grade Separation Feasibility Report; and

BE IT FURTHER RESOLVED that funds be appropriated in the amount of \$58,000 from Measure K Grant funds for this project.

Dated: March 17, 2010

I hereby certify that Resolution No. 2010-26 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 17, 2010, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce, and
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk